Guy Gannett Publishing Company, d/b/a Central Maine Morning Sentinel *and* Local 128, Portland Newspaper Guild, a/w the Newspaper Guild. Case 1-CA-25297

June 15, 1989

DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS JOHANSEN AND HIGGINS

On December 30, 1988, Administrative Law Judge Arline Pacht issued the attached decision. The Respondent filed exceptions and a supporting brief, the General Counsel filed a brief in support of the judge's decision, and the Charging Party filed a brief answering the Respondent's exceptions and in support of the judge's decision.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings,[1] and conclusions as explained below and to adopt the recommended Order.

The judge found, and we agree, that the Respondent had an established practice of granting an annual wage increase to all its employees not covered by a collective-bargaining agreement.[2] The editorial employees in this case who had selected the Union as their bargaining representative remained within this class following certification and the onset of contract negotiations, and therefore reasonably expected that the wage increase would continue to be part of their ongoing conditions of employment, at least until an initial collective-bargaining agreement was in place to establish a wage scale independent of the Respondent's past practice, or until the parties had bargained to impasse about changing these conditions. Neither event occurred here.

In response to our dissenting colleague, we first note that while the *amount* of the general increase is discretionary on the part of the Respondent, a subsequent decision to grant that year's increase to some employees in the affected class and at the same time withhold it from others similarly situated[3] is a clear departure from an established practice "to which the employer has already committed himself." *NLRB v. Katz*, 369 U.S. 736, 746 (1962). Further, it is of no legal significance that the Respondent did not explicitly agree to do what it was obligated to do, given the state of negotiations in February 1988, and what it had in fact done during negotiations in February 1987—maintain its practice of wage increase parity for all employees not covered or, as here, not *yet* covered by a collective-bargaining agreement.

Additionally, as the judge found, the parties had agreed on ground rules under which bargaining over economic issues would be postponed until after noneconomic issues were resolved, and the Respondent did not seek to bargain over a change in those ground rules. In fact this agreement had been earlier relied on by the Respondent in resisting a union request concerning a dental plan and a reduced workweek. Simply stated, what the Respondent did here was to confront the Union with an obligation to make a decision on a proposed wage increase before the bargaining over noneconomic issues was concluded.[4]

We therefore adopt the judge's finding that the Respondent violated Section 8(a)(5) of the Act by withholding the 1988 general wage increase from the unit employees.

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge and orders that the Respondent, Guy Gannett Publishing Company, d/b/a Central Maine Morning Sentinel, Waterville, Maine, its officers, agents, successors, and assigns, shall take the action set forth in the Order.

MEMBER JOHANSEN, dissenting.

Generally, an employer whose employees elect union representation is not permitted to change wages as it had done before representation. It may do so, however, if the changes are "automatic increases to which the employer has already committed himself . . . ." *NLRB v. Katz*, 369 U.S. 736,

[1] The judge found, in the third paragraph of the section of her decision entitled "Alleged Unfair Labor Practices," that Eugene Poston, the Respondent's labor relations director, stated at the initial 1986 bargaining session that the Respondent did not intend to deviate from its past practice of granting a general wage increase each year In fact, the Respondent's intention to adhere to past practice, as set forth by Poston, concerned its policy on merit and step increases Poston testified further that his expressed position regarding the Respondent's historical annual wage increase policy "was not very clear" at that initial session. This factual error by the judge does not affect our decision

[2] The parties stipulated that "From at least 1981 through 1987, in January or February of each year, the employer granted to its employees not covered by a collective bargaining agreement annual wage increases" in amounts varying from 8.9 percent in 1981 to 4 percent in 1987.

[3] Cf *Postal Service*, 261 NLRB 505 (1982), relied on by our dissenting colleague. There the employer's past practice was to distinguish between represented and unrepresented employees from the date of certification of the former's bargaining representative Further, the Board stressed, in dismissing the 8(a)(5) allegation, that the timing as well as the amounts of wage increases were subject to the employer's sole discretion.

[4] Chairman Stephens would rely on this rationale alone. Member Higgins would additionally rely on the judge's finding that, in any event, the Respondent's oral and written notices to the Union of its 1988 wage proposal, in the circumstances of this case, did not afford the Union a reasonable opportunity to respond.

746 (1962). The Respondent here—involved in the prolonged negotiation of an initial contract—failed to include newly represented employees in a yearly increase accorded unrepresented employees as it had a year earlier. The Union had requested that parity be maintained while negotiations continued. The Respondent did not agree. As in *Katz*, "the raises here in question were in no sense automatic, but were informed by a large measure of discretion." Ibid. I am not persuaded that the Respondent undertook to maintain parity, nor that the raise was "automatic" within the contemplation of *Katz*. I would dismiss the complaint.[1]

[1] *Postal Service*, 261 NLRB 505 (1982).

Thomas J. Morrison, Esq., for the General Counsel.
Geoffrey K. Cummings, Esq. (Preti, Flaherty, Beliveau & Pachios), of Portland, Maine, for the Respondent.
E. David Wanger, Esq. (Angoff, Goldman, Manning, Pyle, Wagner & Hiatt), of Boston, Massachusetts, for the Charging Party.

DECISION

STATEMENT OF THE CASE

ARLINE PACHT, Administrative Law Judge. Upon a charge filed on February 26, 1988, a complaint issued on April 21 alleging that the Respondent, Guy Gannett Publishing Company, d/b/a Central Maine Morning Sentinel (the Respondent) violated Section 8(a)(1) and (5) of the National Labor Relations Act (the Act) by refusing to grant a wage increase to employees in a bargaining unit represented by the Charging Party, Local 128, Portland Newspaper Guild (the Union). The Respondent answered on May 6 denying that it had committed any unfair labor practices.

The case was tried before me in Boston, Massachusetts, on September 29, 1988, at which time the parties had full opportunity to examine witnesses, introduce documentary proof, and present oral argument. Taking into account the witness' demeanor, and on the entire record, including posttrial briefs submitted by the parties, pursuant to Section 10(c) of the Act, I make the following

FINDINGS OF FACT

I. JURISDICTIONAL FINDINGS

Respondent, a corporation with an office and place of business in Waterville, Maine, has been engaged in publication of a newspaper. Respondent had membership in or subscribes to interstate news services including the Associated Press and the United Press International and also advertises nationally sold products. In addition, Respondent in the course and conduct of its business operations, annually derived gross revenues in excess of $200,000. The complaint alleges, Respondent admits, and I find that it is an employer within the meaning of Section 2)(2), (6), and (7) of the Act.

The Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

In May 1986, the Union was certified as the collective-bargaining representative for editorial department employees at the Respondent's offices in Waterville, Skowhegan, and Farmington, Maine. Negotiations began in mid-July with Leo Ducharme, an International representative of the Union leading the employee bargaining committee and Eugene Poston, labor relations director, serving as the Respondent's chief spokesman.

When bargaining commenced, the parties adopted certain ground rules, including agreement that economic issues would be reserved until noneconomic issues were resolved. The record is undisputed that consistent with this agreement, when the Union asked in late 1987 whether an improved dental plan and a reduced workweek granted to unrepresented employees could not extend to unit employees as well, the Respondent resisted on the ground that such matters involved "hard economics" and had to be deferred until noneconomic issues were settled. Guild agent Ducharme also testified that the Respondent resisted the Union's effort to reach agreement to continue the Company's sick leave plan for the same reason.[1] However, in December 1987, the parties did agree to reimburse employees for automobile travel expenses.

Moreover, during the preliminary stages of bargaining, Union Representative Ducharme briefly alluded to another economic concern: he told Respondent's negotiators that the Company would be expected to grant its customary general wage increase in January or February 1987, just as it had in the past. He was referring to the Respondent's traditional practice of granting its unrepresented employees an annual wage increase which varied from 8.9 percent in 1981 to 4 percent in 1987. Poston answered at that time that the Respondent did not intend to deviate from past practice.

Subsequently, at a bargaining session in January 1987, with noneconomic issues still on the table, the Union pointed out that the annual wage increase soon would be due. Specifically, Ducharme stated that the annual increase should be granted to the editorial employees just as it had in the past. The Company replied that it agreed to grant the general wage increase, no additional wage adjustments for the newly represented members of the editorial unit would be forthcoming that year. When the Union refused to acquiesce to this position, the Respondent extended a general wage increase of 4 percent to both unrepresented and editorial unit employees without further comment.

The Sentinel Employee Handbook describes the annual wage raise as "[a]n increase determined periodi-

[1] Although the record is vague on this matter, it appears that at an unspecified time during the course of negotiations, the editorial unit employees began receiving sick leave benefits, although the parties had not agreed in writing to the terms of the program.

The Respondent incorrectly asserted in its brief that the parties bargained about merit increases. In fact, the transcript shows that Ducharme did *not* recall discussing this subject. (See Tr. 26.)

cally by Sentinel Management, intended to reflect economic and competitive conditions." (G.C. Exh. 2 at 10.)[2] To augment this description, Robert Moorehead, general manager of the newspaper, explained that the amount of the annual increase was influenced by a comparison with wage rates offered by comparable newspapers in the area and the condition of the national, state, and local economy. Although Moorehead maintained that the wage increase decision was subjective and discretionary and that there was no cap above which he would refuse to go, he conceded that he was opposed to a raise which fell below 4 percent.[3]

In early January 1988, the Union again urged the Respondent to grant general wage increases to its members together with the unrepresented employees. At a negotiating session of January 14, the Respondent's spokesman, Poston, stated that a 4-percent wage raise would be extended to unit employees provided that the Union would make no further demands with regard to general wage adjustments. Ducharme rejected the proposition, characterizing it as a take-it-or-leave-it proposal. At the next bargaining meeting on January 22, Poston handed Ducharme a letter which restated Respondent's position in the following terms:

> [The] Employer proposes a general wage increase of 4 percent to be effective February 1, 1988 for all employees of the Editorial Department . . . provided the Guild acknowledges in writing that such general increase will fully satisfy the Employer's obligation with regard to general wage adjustments for the period extending from May 8, 1986 to February 5, 1989.
>
> In the event the Guild does not notify the Employer of acceptance of the above proposal by February 1, 1988, the Employer will consider the proposal to be rejected by the Guild and the matter of general wage adjustments continues to be open for negotiation. [G.C. Exh. 3.]

The Guild advised its members of the Company's proposal in a bulletin dated January 22 pointing out that to accept it would put an end to bargaining for a retroactive pay increase. [R. Exh. 1.] By letter of February 8, the Union rejected the Respondent's proposal and refused to waive its right to negotiate wage adjustments retroactively and prospectively. In the Union's view, for the Respondent

> to impose such a condition and to unilaterally withold [sic] the traditional February increases is . . . an unfair labor practice. Our position . . . continues to be that the employer had an obligation to grant the traditional February increases . . . . [G.C. Exh. 4.]

At the bargaining meeting following receipt of this letter, the parties again focused on the question of the annual wage increase. Poston reaffirmed the Company's position, stating that it would be imprudent to grant a general increase and thereby lose bargaining power when the matter of retroactive adjustments was addressed. He then urged the Union to present a counterproposal which Ducharme refused to do. As a consequence of this stalemate, the editorial unit employees were denied a 4-percent raise granted to the unrepresented workers. By the time of the instant hearing, the parties had held 50 bargaining sessions, but had failed to resolve this dispute or execute a final contract.

II. DISCUSSION

It is axiomatic that an employer may not unilaterally alter terms and conditions of employment without affording the union representing its employees a meaningful opportunity to negotiate "*in fact.*" *NLRB v. Katz*, 369 U.S. 736, 743 (1962). This precept provides the starting point for analyzing the two issues in this case: first, whether the 1988 general wage increase was a fixed term of employment within the meaning of Section 8(d) of the Act and, second, if it was, whether the Respondent withheld the increase without bargaining with the Union in violation of Section 8(a)(5).

A. *The Wage Increase Was a Condition of Employment*

In determining whether a particular practice should be characterized as a term or condition of employment, the Board has examined the regularity of the practice and way in which the employer has treated it. See, e.g., *UARCO Inc.*, 283 NLRB 298 (1987) (employer unlawfully withheld increase to newly represented employees who had received increase equal to those of competitor for 17 years); *Southern Michigan Gas Co.*, 198 NLRB 1221 (1972) (employer violated Sec. 8(a)(5) by discontinuing wage increase policy in effect for 20 years); *Gas Machinery Co.*, 221 NLRB 862 (1975) (bonuses awarded for 6 years were part of wage structure); *Allied Products Corp.*, 218 NLRB 1246, 1252–1253 (1975).

On applying these criteria to the instant case, there can be no question that the annual wage increase was a fixed condition of employment. As noted above, the Respondent regularly granted an across-the-board annual increase for many years, at least since 1981. Given the consistency of the Respondent's practice, the work force surely was entitled to regard it as a permanent element in their wage structure program. Moreover, the Respondent itself made it clear that a per annum raise was an integral part of its Salary Administration Plan, stating unequivocally that:

> [a]t least once in each year, the salary range will be reviewed, to assure that the salary ranges meet the plan objectives. Traditionally, significant general increases are made February 1. [G.C. Exh. 2 at 6.]

This pronouncement establishes beyond doubt that the general wage increase was a basic term of employment.

[2] The annual general wage increase is one facet of a "Salary Administration Plan" in effect at Respondent's facility.

[3] Although Moorehead said he had no ceiling on pay hikes, he disclosed that in the early 1980s, when the Respondent realized it was lagging behind industry wages by 14 or 15 percent, it chose to cure this inequity by stretching increases over a 2-year period.

The Respondent submits that the annual pay raise was discretionary and subjective and, therefore, was not a mandatory subject of collective bargaining. To be sure, the Respondent retained discretion to determine the amount of the pay raise. But the exercise of some discretion is not fatal to the conclusion that the raise was a condition of employment. See *Gas Machinery Co.*, supra at 863–864; *Allied Products Corp.*, supra at 1252; *General Motors Acceptance Corp.*, 196 NLRB 137 (1972), enfd. 476 F.2d 850, 853–854 (1st Cir. 1973). Here, Respondent followed a consistent course: It did not deviate from year to year in deciding that a raise would be granted; it applied a formula derived from uniform factors across-the-board and granted it to all employees whose wages were not governed by collective-bargaining agreements. Since Respondent and the Union had not reached agreement on a labor contract by February 1, the represented editorial unit employees (unlike other represented workers already covered by extant labor contracts) continued to be eligible for the 1988 raise as an absolute condition of their employment.

B. *Respondent Unilaterally Withheld the Wage Increase*

Because the wage increase was a condition of employment, the Respondent was not proscribed from unilaterally granting it to the editorial unit employees. On the other hand, the Respondent could not withdraw the increase unless impasse was reached after the Union was afforded a meaningful opportunity to bargain, or waived its right to bargain about the change. The General Counsel and the Charging Party claim, contrary to the Respondent, that neither of these circumstances occurred in this case.

Section 8(d) of the Act obligates an employer to bargain in good faith over terms and conditions of employment such as the 1988 general wage increase at issue here. In defining the parties' obligations under the Act, the Supreme Court has stated that "Collective bargaining . . . is not simply an occasion for purely formal meetings between management and labor, while each maintains an attitude of 'take it or leave it'; it presupposes a desire to reach ultimate agreement." *NLRB v. Insurance Agents*, 361 U.S. 477, 485 (1960).

The Board and the courts are particularly vigilant in scrutinizing bargaining when an employer proposes to change terms of employment during initial contract negotiations, recognizing that such changes can jeopardize the efficacy of a newly certified union. See, e.g., *Eastern Maine Medical Center*, 253 NLRB 243, (1980), enfd. 658 F.2d (1st Cir. 1981). Thus, in *NLRB v. United Aircraft Corp.*, 490 F.2d 1105, 1110 (2d Cir. 1973), in rejecting the employer's argument that it should be allowed to withhold wage increases to improve its bargaining position, the court of appeals reasoned:

> If the Company's position were accepted, an employer would appear to be entitled, in the hope of improving its bargaining position, to alter all conditions of employment after union certification, reducing wages to the legal minimum and allowing the work environment to deteriorate. The devasting impact that such action would have upon the exercise of Section 7 rights in indisputable.

On applying the reasoning of the above-cited cases to the facts of this controversy, I conclude that the Respondent failed to provide the Union with a meaningful opportunity to bargain before withdrawing the 1988 wage raise.

To briefly recapitulate the operative facts, the record shows that while the parties were still engaged in negotiating noneconomic issues in keeping with their ground rules, the Respondent orally advised the Union on January 14, 1988, that it would grant the annual wage increase to the editorial employees if, by February 1, the Union agreed to forgo bargaining about additional wage adjustments. Respondent formally conveyed its position in writing on January 22, but the Union did not reply until February 8 with a letter rejecting the proposal. Consistent with its proposition, the Respondent gave a 4-percent rate increase to unrepresented employees and denied it to the editorial unit members.

In analyzing the parties' bargaining conduct, it is important to bear in mind that management and the Union had agreed voluntarily on ground rules which would govern their negotiations; they first would bargain about noneconomic issues and then deal with the generally more taxing economic subjects. Their agreement did not reflect polite rules of etiquette; rather, it grew out of the experience of seasoned negotiators who for reasons of their own took this rule of order seriously.[4] (Cf. *Eastern Maine Medical Center*, supra at 232–233 (1980).) The Union was entitled to rely on this agreement in framing its bargaining strategy and had no duty to bargain at this time. The Respondent was not at liberty to rearrange the structure of negotiations simply because the annual wage increase came at an inconvenient time. Rather, the burden was on Respondent to maintain the status quo and bargain about wage adjustments at a time when that issue properly was on the table.

Respondent contends that the parties resolved other ecomomic concerns during the course of negotiations; consequently, the Union waived any right to claim that bargaining over the general wage increase was barred. The record does not support the Respondent's thesis. Thus, it is uncontroverted that the Respondent insisted on deferring discussion of such issues as a reduced work week and a dental plan until economic issues were on the bargaining table. It is true that several matters such as reimburseable travel expenses and sick leave benefits were handled out of turn, but discussion of a few, isolated economic topics (far less critical to employees than the subject of wages) does not establish a patten of conduct or disrupt the order which the parties themselves adopted.

The status of negotiations between the Respondent and the Guild distinguishes this case from the situation in *Winn-Dixie Raleigh, Inc.*, 267 NLRB 231 (1983). In that

[4] Ducharme was employed by the Guild for more than 15 years and as an International representative, was responsible for negotiating contracts Poston administered labor agreements throughout his 14 years with the Respondent and participated in negotiations for at least 8 of the current contracts

case, both the employer and the union had exchanged specific proposals regarding wage increases; the union rejected the employer's offer, and then told the employer it was free to implement the raise for the represented as well as unrepresented employees and it would seek an additional amount from the NLRB. The administrative law judge found that the parties had bargained over the wage increase and, in addition, had almost completed their negotiations. In these circumstances, the administrative law judge, with Board approval, found that the Respondent satisfied its bargaining duty.[5] Unlike the bargaining history in *Winn-Dixie*, there is no evidence here that the parties had exchanged or considered wage proposals.[6] To the contrary, they had agreed to shelve economic issues until the pending noneconomic matters were resolved.

More was at stake here than the order of bargaining. When the Respondent's bargaining strategy is examined in context, it is clear that whatever the outcome, the Union was put into a no-win position. If the Union wanted to assure that its unit members received the wage increase to which they were entitled, it would have to give up its right to bargain over other wages altogether. If the Union rejected Respondent's proposal, the editorial employees would be denied a raise they had good reason to expect. Once the wage increase was withheld, the damage to the Union's prestige was accomplished. Bargaining at some unspecified future date could not compensate the represented employees for the loss of a wage increase given to all unrepresented employees months earlier. Thus, by posing untenable options, the Respondent cast the Union into the mold of an ineffective bargaining agent. The Supreme Court's rule requiring maintenance of the status quo during collective-bargaining negotiations was designed to prevent just such situations. See *NLRB v. Katz*, supra.

By setting a deadline for the Union's response only 1 week after it formally presented its position on the wage increase, Respondent did not afford the Union sufficient opportunity to bargain "in fact." *NLRB v. Katz*, supra at 743. The Respondent's haste deprived the Union of the time to deliberate, to reflect on a whole range of issues so that it could decide what compromises to make and what proposals to resist. Respondent's insistence on a quick reply provides further evidence that it did not intend to engage in a meaningful give and take on this issue. Even if the parties had not agreed to defer economic issues, 1 week is hardly sufficient time for the Union to formulate a thoughtful counterproposal. See *Milwaukee Terminal Service*, 282 NLRB 637 (1987) (employer violated Sec. 8(a)(5) where offer to discuss major change with union 3 days before implementation, too late to allow study of the offer or exploration of compromise of the issue); *Rose Arbor Manor*, 242 NLRB 795, 798 (1979) (employer's letter notifying union of planned unilateral action prevented meaningful bargaining).

Respondent submits that it gave the Union adequate notice since Poston orally advised Ducharme on January 14 of its intentions with regard to the annual wage increase. In the circumstances present here, the Respondent's oral communication cannot constitute effective notice. It will be recalled that, in 1987, the Respondent also attempted to take the same position it did in 1988, that is, to use the annual wage increase as a bargaining chip. When the Union protested, the Respondent relented and granted the wage increase to the editorial employees together with other unrepresented workers. The Union had no reason to assume that the Respondent would persist in 1988 when it had retreated with respect to that same issue in the past.

For the reasons set forth above, I find that the Respondent did not satisfy the Act's command to bargain in good faith with the representative of its employees over the wage increase issue. Therefore, by unilaterally withholding the 1988 increase from the editorial unit employees, Respondent violated Section 8(a)(5) of the Act.

CONCLUSIONS OF LAW

1. The Respondent, Guy Gannett Publishing Company, is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. The Union, Local 128, Portland Newspaper Guild, is a labor organization within the meaning of Section 2(5) of the Act.

3. The Union is the exclusive bargaining representative of Respondent's employees in the following appropriate unit:

> All full-time and regular part-time editorial employees, employed by the Employer at its Waterville, Skowhegan and Farmington, Maine facilities, but excluding all other employees guards and supervisors as defined in the Act.

4. By unilaterally withholding the 1988 general wage increase without affording the Union an opportunity to bargain with respect thereto, Respondent has violated Section 8(a)(5) and (1) of the Act.

5. The aforesaid unfair labor practice affects commerce within the meaning of Section 2(6) and (7) of the Act.

THE REMEDY

Having found that Respondent has engaged in an unfair labor practice, I shall recommend that Respondent be ordered to cease and desist therefore and take certain affirmative action designed to effectuate the purposes of the Act, including the posting of appropriate notices and, on request, bargaining with the Union in good faith.[7]

[5] See also *Anaconda Ericcson Inc.*, 261 NLRB 831, 834–835 (1982), in which the administrative law judge also found that because wage issues were on the bargaining table 3 weeks before a scheduled increase, the denial of the increase to represented workers did not violate Sec. 8(a)(5).

[6] The Union's brief reminders to the Respondent that the annual general wage increase soon would be due certainly cannot be characterized as a discussion of an economic proposal

[7] In order to ensure that the employees in the appropriate unit will be accorded the services of their selected bargaining representative for the period provided by law, the initial period of certification shall be construed as beginning on the date Respondent commences to bargain in good faith with the Union as the statutory bargaining representative in the appropriate unit. See *Mar-Jac Poultry Co*, 136 NLRB 785, 786–787 (1962).

Since Respondent has been found to have withheld wage increases to which bargaining unit employees were entitled and would have received but for Respondent's unilateral action in violation of Section 8(a)(5) and (1) of the Act. I shall recommend that each of the affected employees in the bargaining unit described above in Conclusions of Law 3 be reimbursed for the increases they would have received from February 1, 1988, to the present by payment to them of the difference between their actual wages and the wages they would have received had the same 4-percent increases been granted to them as were awarded to unrepresented employees. The amount shall be computed on a quarterly basis in the manner set forth in *F. W. Woolworth Co.*, 90 NLRB 289 (1950), plus interest as computed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[8]

ORDER

The Respondent, Guy Gannett Publishing Company, d/b/a Central Maine Morning Sentinel, Waterville, Maine, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to bargain collectively with the Union with respect to the 1988 general wage increase or any other term or condition of employment by unilaterally withholding said increase in the appropriate unit represented by Local 182, Portland Newspaper Guild.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of rights guaranteed in Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, bargain collectively in good faith with the Union as the exclusive collective-bargaining representative of its employees in the appropriate unit described above in Conclusions of Law 3.

(b) Make whole the employees in the appropriate unit for any monetary losses they have suffered by reason of Respondent's unilateral withholding of the 1988 general wage increase in the manner set forth above in the remedy section.

(c) Preserve and, on request, make available to the Board or its agents, for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due under the terms of this recommended Order.

(d) Post at its Waterville, Skowhegan, and Farmington, Maine facilities copies of the attached notice marked "Appendix."[9] Copies of the notice, on forms provided by the Regional Director for Region 1, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(e) Notify the Regional Director for Region 1 in writing within 20 days from the date of this Order, what steps the Respondent had taken to comply.

[8] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

[9] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT unilaterally withhold the 1988 general wage increase for editorial employees represented by Local 128, Portland Newspaper Guild without adequate notice and appropriate opportunity to bargain with respect thereto being afforded to the Union.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of the rights guaranteed by Section 7 of the National Labor Relations Act.

WE WILL, on request, bargain in good faith with the Union as exclusive collective-bargaining representative of our employees in the following appropriate unit:

> All full-time and regular part-time editorial employees, employed by the Employer at its Waterville, Skowhegan and Farmington, Maine facilities, but excluding all other employees guards and supervisors as defined in the Act.

WE WILL make whole the employees in the above appropriate unit for any monetary losses they may have suffered by reason of our unilateral wihholding of the 1988 general wage increase.

GUY GANNETT PUBLISHING CO. D/B/A
CENTRAL MAINE MORNING SENTINEL